

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

JOHN E. HARRELL, *et al.*

Plaintiffs,

v.

DOUGLAS M. DELUCA,

Defendant.

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**Civil Action No.: 1:20-cv-00087
(LO/MSN)**

**DEFENDANT DOUGLAS M. DELUCA’S RESPONSES TO JOHN HARRELL’S
REQUEST FOR PRODUCTION OF DOCUMENTS**

Defendant Douglas M. DeLuca (“Defendant”) by counsel, and pursuant to Rule 34 of the Federal Rules of Civil Procedure, hereby objects and responds to Plaintiff John Harrell’s Requests for Production of Documents (“Requests”) as follows.

GENERAL OBJECTIONS

A. Defendant hereby preserves his right to assert privilege and/or the attorney work-product doctrine as applicable.

B. To the extent that Requests are overly broad and/or unduly burdensome, and/or seek information that is not reasonably related to any claim or defense, or unnecessarily cumulative, Defendant objects to them.

C. Defendant objects to the Requests to the extent that they fail to define certain terms and are thus subject to speculation as to their meaning. To the extent that responses are required, Defendant will respond to the extent that he is able, in accordance with his interpretation of any such undefined terms.

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all communications between Deluca and any person relating to the claims and defenses in the Action, the Sales Contract, the Construction Contract or the Work.

OBJECTION: Defendant objects to this Request because it seeks documents protected by the attorney-client privilege. Subject to, and without waiving, the foregoing general and specific objections:

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

2. Produce all communications between Deluca and Sotheby's or Muha or Lowham, or Browne relating to the claims and defenses in the Action, the Sales Contract, the Construction Contract or the Work.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

3. Produce all communications between Deluca, Federal Home or Federal Construction and any person relating to the certificates of insurance or insurance policies referenced in the certificates of insurance attached hereto as **EXHIBIT A**, or any other insurance policy covering the Property or the Work at any time between April 3, 2019 and the present day.

OBJECTION: Defendant objects to this Request because it seeks documents protected by the attorney-client privilege. Subject to, and without waiving, the foregoing general and specific objections:

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

4. Produce all insurance policies and certificates of insurance for any policy covering the Property or the Work at any time between April 3, 2019 and the present day.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

5. Produce all documents, including invoices, proof of payment and job cost reports, relating to any costs incurred by Deluca, Federal Home or Federal Construction relating to the Work, the Sales Contract or the Construction Contract including labor, equipment, material, suppliers, and subcontractors.

OBJECTION: Defendant objects to this Request to the extent it is overly broad and unduly burdensome, and seeks information that is not reasonably related to any claim or defense.

6. Produce all documents which you rely on to support the denial of any allegations in the Plaintiff's Complaint.

OBJECTION: Defendant objects to this Request because it seeks information that will be disclosed pursuant to Federal Rule 26(a)(2). Defendant further objects to this Request to the extent it seeks documents that are protected by the attorney-client privilege or the work-product doctrine. Defendant further objects as this Request seeks documents before Defendant is required to disclose such documents pursuant to the Scheduling Order. Subject to, and without waiving, the foregoing general and specific objections:

RESPONSE: Defendant will supplement this response as appropriate and will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

7. Produce all documents identified or relied upon responding to any interrogatories in the Action.

RESPONSE: Not applicable as Plaintiff has not propounded any Interrogatories.

8. Produce any documents produced in response to a third-party subpoena issued by you in the Action.

RESPONSE: None.

9. Produce all documents, including but not limited to, status reports, internal reports, notes, memoranda, minutes, journals, daily logs, and field notes relating to the Work, the Sales Contract or the Construction Contract.

OBJECTION: Defendant objects to this Request to the extent it is overly broad, unduly burdensome, and not reasonably related to any claim or defense.

10. Produce all photographs relating to the Work or the Property.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

11. Produce all timesheets or payroll records relating to any Work performed at the Property pursuant to the Sales Contract or Construction Agreement.

OBJECTION: Defendant objects to this Request to the extent it is overly broad and unduly burdensome, and seeks information that is not reasonably related to any claim or defense..

12. Produce all invoices, payment applications or other documents in which any entity requested payment for the Work and any construction work or materials furnished to the Property pursuant to the Sales Contract or Construction Contract.

OBJECTION: Defendant objects to this Request to the extent it is overly broad and unduly burdensome, and seeks information that is not reasonably related to any claim or defense.

13. Produce all budgets, budget reports, cost projections, financial statements and any other documents which evidence, relate to pertain to the cost of completing any of the Work at the Property pursuant to the Sales Contract and Construction Contract

OBJECTION: Defendant objects to this Request to the extent it is overly broad and unduly burdensome, and seeks information that is not reasonably related to any claim or defense.

14. Produce all documents in your expert witness's file relating to the captioned lawsuit, including, without limitation: all communications between you and the expert or your attorney and the expert; all underlying documents, correspondence, test results, photographs, and reference materials consulted by the expert; your agreement with the expert; the expert's current curriculum vitae; all documents supporting the expert's qualifications to testify as an expert in the trial of the captioned lawsuit; all reports written by the expert or for the expert, including drafts, interim and final reports; all documents that the expert reviewed that support any opinion he or she intends to render at the trial of the captioned lawsuit; and all documents that the expert reviewed that are not consistent with any opinion he or she intends to render at the trial of the above-captioned case.

OBJECTION: Defendant objects to this Request because it seeks information that will be disclosed pursuant to Federal Rule 26(a)(2). Defendant further objects to this Request to the extent it seeks documents that are protected by the attorney client privilege or work product doctrine.

RESPONSE: Defendant will respond as required by the Scheduling Order entered by this Court, and will supplement his response to this Request as appropriate.

15. Provide all documents constituting, evidencing, reflecting or relating to estimates or bids by any subcontract or material supplier for the Work performed pursuant to the Sales Contract or Construction Contract.

OBJECTION: Defendant objects to this Request to the extent it seeks documents which are not relevant nor reasonably related to any claim or defense.

16. Produce all entries in any check registry or other financial ledger relating to payments made to subcontractors or suppliers or other third parties which performed Work or furnished materials to complete the construction work required under the Sales Contract or Construction Contract.

OBJECTION: Defendant objects to this Request to the extent it seeks documents which are not relevant nor reasonably related to any claim or defense.

17. Produce all receipts or other proof of payment documents relating to payments made to subcontractors or suppliers or other third parties which performed Work or furnished materials to complete the construction work required under the Sales Contract or Construction Contract, including but not limited to receipts for the master bath tile, the front gates, the outdoor refrigerator drawers, the door stops (including any restocking fee) and all other items described in any Exhibit to the Sales Contract, and any amendment thereto.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

18. Produce all subcontracts or purchase orders between you, Federal Home or Federal Construction and any subcontractors or suppliers or other third parties which performed Work or furnished materials to complete the construction work required under the Sales Contract or Construction Contract.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

19. Provide the original certificates of insurance shown in the copies attached hereto as **EXHIBIT A**. If received electronically, provide the email of transmission.

RESPONSE: See Response to Request Number 3.

20. Original versions of the letters dated October 28, 2019 attached hereto as **EXHIBIT B**. If received by email, provide the transmitting email.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

21. Produce all communication between you, Federal Home or Federal Construction and Soil & Structure, Consulting, Inc. or Amol Fulambarkar relating to the Work, the Property or any of the claims and defenses in the Action.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

22. Produce all communications between Deluca, Federal Home or Federal Construction and Arlington County relating to the Property or the Work.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place

23. Produce all permit applications and any document submitted in support of any permit application for construction work on the Property.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

24. Produce all drawings or plans pertaining to Work performed on the Property.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

25. Produce any third-party report regarding the roof on the Property and all and all communications between Deluca, Federal Home or Federal Construction concerning the roof on the Property.

RESPONSE: None.

26. Any and all document relating to whether the work complied with Environmental Protection Agency lead paint regulations.

RESPONSE: None.

27. Produce any spray foam certificate for spray foam work performed at the Property.

RESPONSE: Defendant will make all non-privileged responsive documents, if any, in his possession, custody and control available for copying and inspection at a mutually agreeable time and place.

Dated: July 9, 2020

Respectfully Submitted,

/s/ Malcolm W. Thomas

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CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2020, I served a true and correct copy of the forgoing on the following counsel of record through U.S. Mail and Email:

Thomas R. Lynch, VSB No. 73158
Bradley Arant Boult Cummings LLP
1615 L Street, NW, Suite 1350
Washington, DC 20036
Counsel for Plaintiffs

/s/ Malcolm W. Thomas
Malcolm W. Thomas